

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FRED J. VANNUCCI, IV,)	
)	
Plaintiff,)	
)	
v.)	No. 12-2938-STA-cgc
)	
THE BRACHFELD LAW GROUP, P.C.,)	
f/d/b/a Erica L. Brachfeld, P.C., and,)	
LVNV FUNDING, LLC,)	
)	
Defendants.)	

ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Before the Court is the United States Magistrate Judge’ Report and Recommendation that Plaintiff Fred J. Vannucci, IV’s (“Plaintiff”) Motion to Compel and for Sanctions be Granted (D.E. # 45). On October 2, 2013, the Magistrate Judge entered an Order allowing counsel for Defendant The Brachfeld Law Group, P.C., f/d/b/a Erica L. Brachfeld, P.C. (“Brachfeld”) to withdraw. The Order directed Brachfeld to identify substitute counsel within thirty days of entry of the order. The Order warned Brachfeld that failure to appear through counsel could result in recommendation to the District Court for sanctions up to and including default judgment.

On November 19, 2013, Plaintiff filed his Motion to Compel and for Sanctions. The Court referred the Motion to the Magistrate Judge for Report & Recommendation the same day (D.E. # 37). A hearing on the motion was noticed on December 19, 2013 (D.E. # 38) and Brachfeld was informed in the notice that counsel was required to appear on its behalf in person

at the hearing. No appearance was made at the January 22, 2014 hearing and no notice of appearance has been filed by counsel of behalf of Brachfeld.

Thus, on January 29, 2014, the Magistrate Judge entered her Report and Recommendation, recommending that default judgment be entered against Brachfeld, since a corporation cannot appear in federal court without an attorney and since Brachfeld was previously warned of the sanctions for failure to appear through counsel. The Magistrate judge further recommended that Plaintiff's request for attorney's fees related to his Motion for Sanctions be considered in conjunction with a damages determination in this case. Objections to the Report and Recommendation were due within fourteen (14) days of the entry of the Report, making the objections due on or before February 12, 2014. Neither party has filed objections within the time permitted.

Having reviewed the Magistrate Judge's Report and Recommendation *de novo*, the parties' briefs, and the entire record of the proceeding, the Court hereby **ADOPTS** the Magistrate Judge's Report. Defendant's Motion to Compel and for Sanctions is **GRANTED**. The Clerk is directed to enter default judgment against Defendant Brachfeld as a sanction for failing to appear and failing to comply with the Court's previous orders. Plaintiff shall submit proof of damages within twenty days of entry of this Order. Plaintiff shall also submit proof of attorney's fees associated with the filing of his Motion to Compel within twenty days of entry of this Order.

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: March 17, 2014.